

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

GEORGE YAHIM ANDERSON

PLAINTIFF

v.

No. 1:21CV14-DAS

SHERIFF JIMMY EDWARDS, ET AL.

DEFENDANTS

MEMORANDUM OPINION

This matter comes before the court on the *pro se* prisoner complaint of George Yahim Anderson, who challenges the conditions of his confinement under 42 U.S.C. § 1983. For the purposes of the Prison Litigation Reform Act, the court notes that the plaintiff was incarcerated when he filed this suit. The plaintiff has brought the instant case under 42 U.S.C. § 1983, which provides a federal cause of action against “[e]very person” who under color of state authority causes the “deprivation of any rights, privileges, or immunities secured by the Constitution and laws.” 42 U.S.C. § 1983. The plaintiff alleges that he was wrongly found guilty of a rule violation and placed in lockdown as punishment. He also alleges that his incoming and outgoing mail have been delayed. For the reasons set forth below, the instant case will be dismissed with prejudice for failure to state a claim upon which relief could be granted.

Factual Allegations

On December 9, 2020, during a search of Unit #3 at the Union County Jail, investigators discovered a charging device in the light fixture in cell #302 (the plaintiff’s cell). More than one inmate was assigned to the cell, but investigators issued a prison Rule Violation Report against plaintiff George Yahim Anderson for possession of the device (which is contraband). Mr. Anderson was placed in lockdown. The next day, Investigator Carpenter told Anderson that several cell phones (major contraband) had been discovered – and that Anderson would be placed in lockdown 24 hours

per day until his criminal charges were resolved. At the time Mr. Anderson filed his complaint, he had been in lockdown for about five weeks – without a disciplinary report or hearing. Mr. Anderson has filed grievances regarding his lockdown, but none appear to have been processed.

In addition, both incoming and outgoing mail have suffered delays – sometimes for weeks. When Mr. Anderson inquired about the delays, he was told that the facility was short on staff – and that the only person designated to sort mail has been out of the facility.

Mr. Anderson seeks as relief:

- (1) Ending the imposition lockdowns without disciplinary reports or hearings;
- (2) Ending 24-hour lockdowns at the Union County Jail;
- (3) Requiring prompt processing of mail;
- (4) Initiating an investigation into prison abuses at the Union County Jail;
- (5) Removal of the Sheriff and investigators.

Due Process in the Prison Context

Under the ruling in *Sandin v. Conner*, 515 U.S. 472 (1995), the plaintiff has not set forth a valid claim for violation of the Due Process Clause or any other constitutional protection. Though

[s]tates may under certain circumstances create liberty interests which are protected by the Due Process Clause, . . . these interests will be generally limited to freedom from restraint which, while not exceeding the sentence in such an unexpected manner as to give rise to protection by the Due Process Clause of its own force . . . nonetheless imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.

Id. 115 S. Ct. at 2300 (citations omitted). In *Sandin*, the discipline administered the prisoner was confinement in isolation. The court found that this discipline fell “within the expected parameters of the sentence imposed by a court of law,” and “did not present the type of atypical, significant deprivation in which a State might conceivably create a liberty interest.” *Id.* at 2301 and 2300.

Therefore, neither the Due Process Clause itself nor State law or regulations gave rise to a liberty

interest providing the constitutional procedural protections afforded prisoners. *Wolff v. McDonnell*, 418 U.S. 539, 563-567 (1974); *see also Malchi v. Thaler*, 211 F.3d 953, 958 (5th Cir. 2000) (holding prisoner's thirty-day loss of commissary privileges and cell restriction due to disciplinary action failed to give rise to due process claim).

In the present case, the plaintiff's punishment was placement in isolation. Such punishment clearly falls "within the expected parameters of the sentence imposed by a court of law," *id.* at 2301, and "did not present the type of atypical, significant deprivation in which a State might conceivably create a liberty interest." *Id.* As such, the plaintiff's allegations regarding violation of his right to due process are without merit, and they will be dismissed for failure to state a claim upon which relief could be granted.

Denial of Access to the Courts

Under the Supreme Court's decision in *Bounds v. Smith*, 430 U.S. 817, 821 (1977), prisoners possess a constitutional right of access to courts, including having the "ability . . . to prepare and transmit a necessary legal document to court." *Eason v. Thaler*, 73 F.3d 1322, 1328 (5th Cir. 1996), quoting *Brewer v. Wilkinson*, 3 F.3d 816, 821 (5th Cir. 1993), *cert. denied*, 510 U.S. 1123 (1994). The right of access to the courts is limited to allow prisoners opportunity to file nonfrivolous claims challenging their convictions or conditions of confinement. *Jones v. Greninger*, 188 F.3d 322, 325 (5th Cir. 1999). "Interference with a prisoner's right to access to the courts, such as delay, may result in a constitutional deprivation." *Chriceol v. Phillips*, 169 F.3d 313, 317 (5th Cir. 1999) (citations omitted).

However, "[a] denial-of-access-to-the-courts claim is not valid if a litigant's position is not prejudiced by the alleged violation." *Ruiz v. United States*, 160 F.3d 273, 275 (5th Cir. 1998); *Henthorn v. Swinson*, 955 F.2d 351, 354 (5th Cir. 1992), *cert. denied*, 504 U.S. 988 (1992), citing

Richardson v. McDonnell, 841 F.2d 120, 122 (5th Cir. 1988). It is only when a prisoner suffers some sort of actual prejudice or detriment from denial of access to the courts that the allegation becomes one of constitutional magnitude. *Walker v. Navarro County Jail*, 4 F.3d 410, 413 (5th Cir. 1993); *see Howland v. Kilquist*, 833 F.2d 639, 642 (7th Cir. 1987). To prove his claim, a plaintiff must show real detriment – a true denial of access – such as the loss of a motion, the loss of a right to commence, prosecute or appeal in a court, or substantial delay in obtaining a judicial determination in a proceeding. *See Oaks v. Wainwright*, 430 F.2d 241 (5th Cir. 1970). Mr. Anderson has not alleged that he has suffered harm to any legal position; as such, his claim of denial of access to the courts will be dismissed for failure to state a constitutional claim.

Conclusion

For the reasons set forth above, the plaintiff's claims regarding denial of due process and denial of access to the courts will be dismissed with prejudice for failure to state a claim upon which relief could be granted. A final judgment consistent with this memorandum opinion will issue today.

SO ORDERED, this, the 24th day of June, 2021.

/s/ David A. Sanders
DAVID A. SANDERS
UNITED STATES MAGISTRATE JUDGE